P.R. No. 3036/05
Presented by Shri Amit Sharma
dated 29/11/06

(4) (1)

CG 182

Single Bench

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

FIRST APPEAL No. 02 / 2006 ~~2005~~

APPELLANT : Smt. Rekha Verma, W/o. Mukesh Varma, Aged About- 24 years, R/o. Present Address- Chhattisgarh Vidyut Mandal Colony, Raigarh, Tahsil and District- Raigarh (C.G.).

VERSUS

RESPONDENT : Mukesh Verma, S/o. Om Prakash Varma, Aged about- 30 years, Occupation- Pvt. Employee, R/o.- Behind Gudakhu Factory, Shankar Nagar, Bilaspur (C.G.).

MEMORANDUM OF APPEAL UNDER SECTION 28 OF HINDU MARRIAGE ACT-1955.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(15)

आदेश पत्रक

मामला क्रमांक F.A. ....02.... सन् 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	03.03.2006 Shri Amit Sharma, counsel for the appellant. Heard on admission and M.(C.)P.No.23/2006 for grant of stay. Marriage between the appellant and respondent was solemnized on 11.02.2000. They lived together as husband and wife. Out of their wedlock, a girl child was born on 17.02.2001. Thereafter, they started living separately. After living separately for more than a one year, they mutually agreed to dissolve their marriage tie. They filed an application under Section 13 B of the Hindu Marriage Act-1955 for a decree by mutual consent and in their petition; they also made an arrangement for custody of their child. Learned Court below kept the application pending for six months but no one withdrew their consent. Learned Court below also held re-conciliation proceeding; but both husband and wife did not agree to join matrimonial relations. Learned trial Court recorded statement of the appellant and respondent, in which they categorically stated that they are living separately and there is no possibility of their living together, they have mutually agreed to dissolve their marriage and also in their statement supported the arrangement agreed in between them regarding the custody of their child. After due consideration of facts and recording statement of both the parties, learned trial Court passed impugned judgment and decree(illegible)	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(16)

आदेश पत्रक

F.A. 2
मामला क्रमांक ..... सन् 2006

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

which the marriage solemnized on 11.02.2000 between the parties was dissolved and for custody of the child, necessary orders have been passed under Section 26 of the Hindu Marriage Act.

Only contention raised by the appellant during the argument is that learned trial Court has no jurisdiction to pass any order with respect to custody of the minor child.

Section 26 of the Hindu Marriage Act clearly made provisions for custody of children to be made by the Court in the decree itself. In case no arrangement is made, after passing the decree upon the application, the matter relating to custody of children can be considered and orders can be passed by the Court.

The Court well within its jurisdiction and power has passed the impugned judgment and decree which does not call for any interference.

The appeal is liable to be dismissed summarily; therefore, it is dismissed in limine.

In view of the above order, M(C.)P.No.23/2006 stands disposed of.

Sd/-
V.K.Shrivastava
Judge

padma

[पीछे देखिये